REMARKS/ARGUMENTS

Applicant has studied the Office Action of April 15, 2005 and made amendments to the claims, as indicated hereinabove, to place the application in condition for allowance. No new matter has been added. Claim 1 has been amended to define Applicant's invention over the cited prior art. Claim 9 has been rewritten in independent form including all limitations of its base claim and any intervening claims. Amended claims 1 and those dependent thereon, i.e. 2-8, are believed to be in condition for allowance. Claims 10 - 29 have been allowed. New claim 30 has been added, as indicated hereinabove, and is believed to be allowable. Therefore, non-allowed claims 1 - 9 and 30, inclusive, are presently pending.

Claim Rejections Under 35 U.S.C. §102

Claims 1, 2 and 8 stand rejected under 35 U.S.C. §102(b) as being anticipated by Contratto (U.S. Patent 3,737,834). Contratto discloses an adapter for a three-conductor power distribution track intended for mounting to a ceiling. See column 3 lines 14 et seq. of the patent.

The Examiner asserts that Contratto discloses Applicant's invention, as originally claimed. Applicant respectfully submits that the invention, as presently claimed, is patentably different from the three-conductor power distribution track of Contratto. Specifically, there is no teaching in Contratto in regard to a lamp stand with a longitudinal axis for orientation in an air handling system and having lamp modules

for positioning either in parallel or normal relationship to the longitudinal axis of the stand, as recited in amended claim 1.

Contratto teaches away from the presently claimed invention and is not concerned with a lamp standard for mounting in an air handling system - it relates to the ubiquitous track lighting system mounted on a ceiling.

Applicant respectfully submits that for a reference, such as the Contratto reference, to function under 35 U.S.C. §102(b), the reference must within the four corners of that document disclose each and every element that is set forth in the claim against which it is applied. Furthermore, every element of the claimed invention, as recited in the claims, must be disclosed either specifically or inherently by a single prior art reference. See, *Minnesota Mining & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559, 1565 (Fed.Cir.1992); Scripps, 927 F.2d at 1576-77; *Lindemann Maschinenfabrik GMBH, v. American Hoist & Derrick Co.*, 730 F.2d 1452, 1458 (Fed.Cir.1984).

Clearly, the Contratto reference does not anticipate in any way Applicant's invention, as presently claimed. In view of the foregoing amendments and remarks, Applicant respectfully requests withdrawal of the 102(b) claim rejections.

Claim Rejections - 35 U.S.C. § 103

Claims 3 and 5 - 7 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Contratto in view of Glatthar et al (U.S. Patent 2,413,704). Glatthar et al is directed to an ultraviolet sterilizer for use in the purification of gas currents.

The Examiner asserts that it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to provide brackets, as shown by Glatthar et al, for the stand of Contratto in order to allow the stand to be mounted to the object.

Inasmuch as claim 1 as amended is patentably distinct from the combined teachings of Contratto or Glatthar et al, taken singly or in combination, it is submitted that claim 1 and those dependent thereon are allowable.

Glatthar et al teach away from Applicant by reciting simply a "germicidal unit comprising a base portion 11 and an upright portion 12 of reduced length and width" (Col. 2, lines 49 - 50, Fig. 1). Also, the "posts ... are of generally rectangular, hollow cross section, each being formed from two interfitting members 13a and 13b of U-shaped section" (Col. 3, lines 5 - 9, Fig. 1).

"To properly combine references, there must have been some teaching, suggestion, or inference in the references, or knowledge generally available to one of ordinary skill in the art that would have led one to combine the relevant teachings." *Ashland Oil, Inc. v. Delta Resins & Refracs., Inc.*, 776 F.2d 281, 227 USPQ 657 (Fed. Cir. 1985). "The hypothetical person skilled in the art is not the judge, nor a layperson, nor one skilled in remote arts, nor a genius in the art at hand...", *Environmental Designs, Ltd. v. Union Oil Co.*, 713 F.2d 693, 218 USPQ 865 (Fed. Cir. 1983). The hypothetical person skilled in the art at the time the invention was made is also not the inventor - "the invention is not to be evaluated through the eyes of the actual inventor", *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 227 USPQ 543 (Fed. Cir. 1985).

Applicant further submits that combining these references in the manner proposed by the Examiner would not have been obvious to one of ordinary skill in the art at the time the invention was made. On the contrary, it appears that the Examiner is using Applicant's disclosure in hindsight as an instruction manual to propose various modifications and subsequent combinations of modified structures in an attempt to produce Applicant's invention. "[O]ne cannot use hindsight construction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention", *In re Fine*, 5 USPQ 2d 596 (Fed. Cir. 1988).

Therefore, it is respectfully submitted that claims 1 - 8, as presently amended, recite subject matter that is patentably distinguishable from the cited references. In view of the foregoing amendments and remarks, Applicant respectfully requests withdrawal of the 103(a) claim rejections.

Allowable Subject Matter

Claim 9 has been objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 9 has been rewritten in independent form including all limitations of its base claim and any intervening claims. Amended claim 9 is believed to be in condition for allowance.

Claims 10 - 29 have been allowed. Newly presented claim 30 is dependent on claim 1 and even more limited as is believed to also be allowable over the art of record.

Conclusion

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. Applicant believes that the claims, as amended, are in condition for allowance. If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is respectfully requested to call the undersigned attorney at the telephone number listed herein below to discuss any steps necessary to place the application in condition for allowance. In the event that any fees are due, the Examiner is authorized to charge our USPTO Deposit Account # 03-2030. A duplicate of this authorization is enclosed.

Respectfully submitted,

CISLO & THOMAS LLP

Date: July 12, 2005

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DMC:sc

Enclosures:
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